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Social Media and Its Use by Law Enforcement

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ABSTRACT

As technology continues to advance at a rapid pace, law enforcement agencies must continue to adapt to the ever-increasing use of social media in society. As Millennials have now been in the workforce for several years, the reliance on social media as a means of communication is compounded by the amount of rapidly evolving technology. Its benefits are numerous and include ease of use, mass communication abilities, investigative support, and assistance in community team building and collaborative efforts. It will also provide a layer of transparency and openness to the public. These are just some of the benefits available for agencies to consider with their use of social media. Law enforcement should continue to embrace the advantages available with social media.

With the prevalence of social media, there will be less of a separation between agencies and their communities. There are numerous examples of the streamlining of information via Facebook and Twitter. Chief David Brown of the Dallas Police Department has a twitter account and regularly posts information to the public. Arlington Police Department's Public Information Office, Chris Cook, also uses this media during some incidents. As technology continues to evolve, agencies will have to keep up with these advances if they want to be able to reach a broad base of the public.

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INTRODUCTION

Over the last several years, there has been a tremendous increase in the number of people using social media sites (Brunty & Helenek, 2012). These sites are utilized for social networking and for individuals, groups, and organizations. Social media sites are designed for users to create individual profiles, identify their connections with others, and view other connections made by others in the system (Brunty & Helenek, 2012). Their use has increased exponentially during this time and has replaced other forms of communication (Murphy & Fontecilla, 2013). Since 2006, there has been an increase of 356% in social media usage (Murphy & Fontecilla, 2013). The first recognized social network was sixdegrees.com, and it was founded in 1997 to promote social associations and business contacts (Boyd & Ellison, 2007).

The most prominent social media sites that come to mind are Facebook, YouTube, Twitter, and LinkedIn. Facebook was founded in 2004 and according to information obtained from their website, they have over one billion daily active users and “1.55 billion monthly active users as of September 2015” (Facebook, 2017, para.1) YouTube is a site designed for its users to share videos and other visual media with its users. Twitter is a site that allows its users to follow each other through a series of microblogs or “tweets” and it is used daily in several agencies across the country during critical incidents to keep their respective subscribers informed of current information. According to their site, www.twitter.com, they have 320 million daily users. LinkedIn is a site designed for business and professional networking and its goal is to aid members discover professional opportunities, business deals, and new ventures (<https://www.linkedin.com/>).

Technology is continuing to make strides, and the law enforcement community recognizes this and is making an effort to keep abreast of these advances. Many agencies across the country now have websites that allow them to disseminate information on current events within their communities. The amount of information exchanged on a daily basis is vast and keeps growing; these leaps in technology make it possible for people to share information rapidly and across great distances. What used to take days or weeks on printed media now takes only seconds to disseminate. Law enforcement agencies should embrace the many advantages available in the use of social media. It has already been used extensively in mass communication for critical incidents, conducting criminal investigations, encouraging collaboration of businesses, and the screening of applicants. The use of social media is a good resource for law enforcement as it may provide a wealth of information for an agency's use. Its use will assist in making agencies more transparent and assist them with reaching a broad, diverse audience so that they can continue to build and foster trusting relationships.

POSITION

The value of social media law enforcement networking is a well-known fact. Since its creation, social media has been used as means of networking. Law enforcement agencies have networked with one another through several different types of social media. The earliest technology driven example could possibly be the Texas Law Enforcement Communications System or TLETS. According to the Texas Department of Public Safety website, TLETS was created in 1937 by the use of six torn-tape teletype network machines. Also, currently, the system has grown to serve 1,300 federal, state, and local agencies and over 100,000 criminal justice employees (Texas

Department of Public Safety, 2017). Other sites used by law enforcement include the use of fusion centers such as the High Intensity Drug Trafficking Area (HIDTA) in El Paso, Texas along with various state and federal level fusion centers (Monahan, 2010).

HIDTA is an information sharing resource targeting drug traffickers and their means of trafficking narcotics and money laundering efforts ("HIDTA initiatives," n.d.). With the popularity of social media continuing to rise and due to its relative ease of use, it is understandable as to why it is becoming an acceptable alternative means of communication. Leads Online is another type of program where pawn shops have to enter information on pawned property in a database that is used by law enforcement in an effort to identify and retrieve stolen property. It is also used as an aid to identify those involved in metal recycling and processing and suspicious activity reported from the online retailer EBay (Leads Online, 2017). These types of resources offer a valuable tool for law enforcement agencies to use in their efforts at crime prevention.

Another example is the use of social media for mass communication. One of the main purposes of social media is to aid in the influence of public opinion and to disseminate information (Crump, 2011). Law enforcement agencies have made great strides with internet-based technology over the last ten years. However, there is much needed room for improvement in an agency's ability to adapt and be progressive in its approach to the uses of social media. One example of this networking was instrumental in the creation of the America's Missing: Broadcast Emergency Response, or AMBER Alert. It was setup in 1996 in cooperation between Dallas-Fort Worth broadcasters and local police. This system was created as a means to aid in the recovery of abducted

children after the kidnapping and murder of Amber Hagerman, who was 9 years old at the time (<http://www.amberalert.gov/faqs.htm>)

A mass communication example is the recent and now infamous case of Ethan Couch. In 2013, Couch was adjudicated as a juvenile for four counts of intoxication manslaughter and two counts of intoxication assault in Fort Worth, TX. His case was brought to the national media stage when a video posted to Twitter showed him at a party allegedly playing beer pong, which could violate the terms of his probation. Shortly afterwards, Couch failed to report to his probation officer, and he, along with his mother, fled to Mexico (Osborne, 2016). Yet another example of mass communication efforts occurring was after the Boston Marathon bombings. Twitter was the primary means of disseminating information to the public immediately after the incident occurred. The Boston Police Department received accolades for their dissemination of information (Franks & Evans, 2015). As of March 2014, Twitter had more than 550 million users with 135,000 signing up each day (Soper, 2014). As law enforcement continues to adapt and evolve with technology, there has been an increase in the acceptance of the use of social media, and it is now being widely used by agencies in assisting with criminal investigations.

Many agencies have developed their own web pages for distribution of information to their citizens and the value of social media as an investigative tool is now mainstream. Criminals also have become technologically proficient and are using social media outlets to aid them in their illegal activity. Hacker groups such as Anonymous, who used to be in the shadows, have now joined this evolution in technology by using YouTube to share their messages with the world (Coleman, 2011).

There are many benefits in the use of social media for investigations. One of these is the development of online profiles in order to catch those who use it as a means to solicit minors. The Dateline NBC series: *To Catch a Predator* is an early example of the pervasive use of social media for criminal activity. This series aired between 2004 and 2007. During this time, it resulted in the identification of approximately 207 men who used social media for the purpose of soliciting minors for sexual activity (Adler, 2010). Also, it has become a good source of information for suspect identification. Routinely, on the daily news, are reports of incidents where the suspect(s) images are caught on video surveillance systems. Agencies will usually investigate the matter as far as they can and then utilize social media as the images are sometimes posted on their respective Facebook pages or on YouTube. Social media can help lead to the quick apprehension of the offender. An example of this is the Baltimore riots after the arrest and subsequent in-custody death of Freddie Gray. A young teenage male was caught on camera participating in the disturbance in his neighborhood and was recognized by his mother, who happened to be watching the news. She immediately went to the scene and proceeded to discipline her son as she was dragging him away from the scene (Levs, Stapleton, & Almasy, 2015). According to a 2015 survey by the International Association of Chiefs of Police, 96.4% of 553 agencies surveyed use social media in some capacity. Also, of these 553 agencies, 88.7% use it for investigations and 92.3% use it to review the social media profiles and activities of suspects (International Association of Chiefs of Police, 2015).

Another use for social media is for the screening of applicants and conducting background investigations. With the number of younger applicants applying for jobs in

law enforcement and public safety, there are many agencies now requiring a social networking background check as part of the screening/hiring process. This process includes the review of the applicant's public profiles for derogatory comments made about previous employers, offensive language such as the use of racial slurs or epithets, and the posting of inappropriate pictures. Background investigators who become suspicious of possible activity will sometimes ask the applicant to log into their respective profile at the investigator's desk so the profile can be reviewed. Of course, the applicant is in the room so any questions that arise may be answered. Agencies must be careful not to demand the password of an applicant as this is a violation of the Federal Stored Communications Act, as upheld in *Pietro vs. Hillstone Restaurant Group* (D.N.J. 2008) (Donlon-Cotton, 2012).

Another use of social media is for the collaboration efforts of agencies with their respective communities. It "allows for the dissemination of information to a large audience, including traditional media outlets and community members, in real time" (Kolb, 2012, para. 5). Once the information reaches its target audience, they too can continue to share with their profile members. This allows for the rapid distribution and real time feed of events as they occur. The value of relationship building between agencies and their citizens has made great strides due to the transparency that it allows. The printing and circulation of newspapers has dropped significantly since 2001, along with losing approximately one-fifth of its journalists due to the prevalence of social media markets taking over and replacing them as a primary means of obtaining the news (Saba, 2009).

Another collaborative effort involves the use of social media for neighborhood watch groups and for events like national night out, crime prevention meetings, and other related activities. These events allow agencies to have close interaction with their residents to address concerns of ongoing criminal activity and for the perceptions of criminal activity in their neighborhoods. They are a useful networking tool that can help to build trust and restore faith and confidence in the agency. High profile events like the previously mentioned 2013 Boston Marathon Bombing, along with the 2013 Riverside California Police Department shooting death of Officer Mike Crain and the 2013 Calgary flood are a few examples of collaboration efforts by law enforcement agencies (Franks & Evans, 2015).

Agencies should help build and solidify strategies to aid them in creating a strategy to provide better customer service as this is the primary purpose of law enforcement. Agencies exist as citizens expect, and they demand a level of service to match their level of expectations. A consistent exchange of ideas and information with clients will assist in building bridges of support, trust, respect, and confidence. Since the death of Michael Brown in Ferguson, Missouri, agencies across the country have increased their accountability because of the half-truths and deception of the witnesses of the shooting incident. These deceptions were one of the catalysts which led to the looting and rioting that occurred there in the weeks and months following his death. The resultant political backlash was substantial as the chief of police and mayor were replaced by the city council (Sidner, Shoichet, & Cummings, 2015).

A surveillance program conducted by the intelligence unit of the New York Police Department on Muslim community members is another example of law enforcement

and political backlash. There was a tremendous amount of backlash from their communities about the program as they were conducting “religious profiling and suspicion less surveillance on Muslims in New York City and beyond” (ACLU, n.d., para. 1). This was considered by the community as a flagrant breach of their civil liberties.

COUNTER POSITION

Along with the advantages of using social media in a law enforcement setting, there are disadvantages as well. One of these is the issue of privacy for both civilian users and agency employees. The first amendment grants the freedom of speech, and this has been a sounding point with those who have disagreements with those involved with social media. Those who use this type of media need to understand that anything posted on a public domain is open for subjective interpretation. In the case of *City of Ontario vs. Quon*, the U.S. Supreme Court was asked to rule on a privacy violation as Officer Quon claimed the city violated his privacy when they searched the personal text messages on his employer provided pager (Abril & Levin, 2012). This case involved the usage of an employer owned pager that was assigned to Quon for his use as a sergeant on the Ontario Police Department Special Weapons and Tactics Team (SWAT). His conduct was brought to light during an audit of messages sent from his city owned pager after his supervisor had grown tired of the repeated overages in the usage of the device. The audit subsequently revealed over 300 non work-related sexually explicit text messages (Abril & Levin, 2012).

The test of reasonableness for privacy is a two-step process. First, the petitioner must have a subjective expectation of privacy. Second, they must also have an objective expectation of privacy (Abril & Levin, 2012). However, this is not an issue

because any employer owned equipment can be monitored by employers under the auspices of Section 7 of the National Labor Relations Act (NLRA) (McNelis, 2014). It is a standard business practice to check on the productivity and habits of employees using social media while at the workplace. This is especially true in governmental agencies that have access to criminal justice information systems (CJIS). These systems are regulated by the CJIS compliance officers of the FBI. Many employers provide computers with access to CJIS systems and are required to have enhanced security protocols. Also, there are caveats that people have to agree to in order to use the system as well as policy and procedure acknowledgements that employees have to sign upon the beginning of employment which will be used to hold them accountable for any negative behavior.

Freedom of speech claims are another issue that has been used by employees after they have been subjected to discipline, including termination for comments made on their social media profiles. Employees have taken civil action alleging that their rights were violated. However, as public safety employees, they must understand that they will be subject to a higher standard than the average citizen. The rights of public employees are related to matters of public concern, which are balanced against their business interests (*Connick v. Myers*, 1983). Another example of this would be the case of *City of San Diego v. Roe*. In this case, an officer was terminated after posting nude photos of himself performing sex acts on eBay. The Supreme Court ruled that his speech was not protected under the First Amendment as it was “linked to his official status as a police officer” and “detrimental to the mission and functions of his employer” (Abril & Levin, 2012, p. 10).

There is a substantial risk of agencies losing the confidence of the public when employees decide to share inappropriate comments, suggestions, and derogatory remarks on a social media platform. Officers who choose to distribute photos of their citizen interactions can also be subjected to disciplinary proceedings as the conduct of employees using social media needs to be above reproach. Defense attorneys are also using social media in court proceedings in an attempt to discredit the officer's testimony. Officers' social media profiles can be placed under scrutiny by defense attorneys to question an officer's character, which could then compromise the integrity of courtroom testimony and investigations (Waters, 2012). This can be seen in the case of New York Police Department Officer Vaughan Etienne. Etienne arrested a citizen for a weapons violation and the case went to trial. The defense brought to light comments made by Etienne on his Facebook page where he made several inappropriate comments about hitting suspects, along with making reference to the motion picture Training Day as a good example of police procedures. These comments resulted in an acquittal of a felony weapons charge for the defendant (VanBrocklin, 2011)

As agencies continue to move towards social media platforms, another concern is mismanagement. Agency employees who are assigned to monitor and update the agency's respective profile(s) must be proficient enough with technology to utilize them effectively to enhance the agency's community efforts. There have been numerous instances of posts being made that contained inaccurate information. These errors are compounded exponentially when the posts are shared by those who are following the agency newsfeed with their individual profile members. This can cause some embarrassment and even irreparable damage to an investigation by compromising its

integrity. Another problem is the issue of “cop baiting.” This occurs when individuals intentionally create confrontations situations with officers to exploit them for personal or political motives (Waters, 2012).

However, a solution to this type of problem would be to have clear and concise policies in place to minimize potential risks of misuse. This, of course, would significantly reduce or eliminate these concerns. Effective policy implementation is critical for an agency so that the credibility of the agency is not called into question for its usage of social media as a communication platform. Without a policy in place that outlines appropriate boundaries, agencies will not be able to take action against their employees. Agencies can implement internal management mechanisms to protect their employees (Waters, 2012).

There is always going to be a segment of society that dislikes law enforcement. It would be beneficial to reach out to these people as well in an attempt to build relationships with them due to the amount of influence they have over others in the use of social media and the perceptions of inequality in their interactions with law enforcement. Some policies are very restrictive in nature and prohibit employees from posting where they work whereas others prohibit posting images of badges, patches, or agency equipment, like vehicles (Keenan & Martin, 2013). Another advantage is the millennial generation entering the workplace. As they have grown up with technology, they are much more comfortable and adept in its workings. They rely on this type of media as an essential means of communication and as an instantaneous means of feedback.

Another problem arising from the social media is the use of it in personnel complaints against officers. In the last two years in the Dallas/Fort Worth metropolitan area, there has been a substantial increase in the number of interactions with citizens who use their cell phones as video recording devices (Potere, 2012). Copblock.org is an example of a website that is used to promote this type of behavior. The Arlington Police Department arrested one of their members for interference with public duties after he was instructed but failed to follow the officer's commands to stay out of his investigation (Arlington Police Department, 2014). What made this case even better was an Assistant District Attorney was doing a ride-along and directed the officer to make the arrest and told him he would accept the charge.

With this, there is a possibility of false or malicious complaints on officers in their day-to-day dealings with citizens. Some officers have been subjected to baseless internal affairs investigations with the proliferation of digital media on the internet. Sometimes, what was viewed on the news was the last 30 to 45 seconds of an incident, which, in actuality, had already been going on two to three minutes (Hanley, 2011). Although some of these complaints are baseless, the agency still has the obligation of due diligence to conduct an impartial and transparent investigation into the officer's conduct during the incident (U.S. Department of Justice, 2007). However, under the Texas Government Code section 614.022, an officer cannot be subjected to disciplinary action unless they are provided a signed copy of the complaint. In instances of gross misconduct where the actual complainant declines to cooperate with the investigation, the chief can be the complainant as the employee's conduct is subject to the agency's established policies and procedures. With agencies that are civil service, the process is

more in depth due to the protections afforded those employees (Texas Government Code, 1993).

RECOMMENDATION

As law enforcement continues to refine and develop its practical approaches to effective uses of social media, its use as an information commodity cannot be ignored. There have been tremendous leaps since social media began to evolve in 2003, and it still “remains in its infancy” (Waters, 2012, p. 1). Society is leaning towards social media and internet based activity as a primary means of communication. There has to be an investment made into this arena by law enforcement agencies if they intend to grow and build strong relationships with those they serve. Law enforcement agencies should continue to embrace the advantages available in the use of social media. There are several benefits to be gained in their investigative, networking, and public relations efforts.

The value of social media in the investigative process is relevant due to the amount of material that is shared online daily. We have seen numerous incidents over the past several years in which the use of social media has played an integral role. In addition, it will continue to assist in building bridges with community members, strengthen collaboration efforts, and enhance partnerships. Benefits also include its use in crime prevention efforts, public awareness and public opinion. Also, there is a valuable resource in the workforce now to further aid in technology driven programs and they are known as the Millennials. The date ranges vary slightly but are generally considered to be the individuals born between approximately 1981 and 1997 (Fischer, n.d.). They are now in the workforce and have proven themselves a valuable resource

as they grew up with cell phones in their hands. As the culture of law enforcement continues to expand and evolve with technology, the value of social media and its use by agencies will only enhance their abilities to reach a broader and diverse audience. The establishment of a social media policy in law enforcement agencies will protect the department against claims of misuse. Also, it will aid the agency in its efforts at community building and aid in establishing mutually beneficial relationships with their communities.

Due to the amount of online activity, the issue of privacy concerns cannot be taken lightly. Everyone needs to be cognizant of the material they deem to share since it leaves a digital footprint that can be accessed later on by the authorities. However, people need to also be aware that when they decide to share their thoughts with others, they are subject to both employer and public scrutiny. Mismanagement of social media activity can lead to a negative reaction by the public and might cause irreparable damage to the agency's credibility. The value of social media greatly outweighs the pitfalls, and law enforcement must continue to utilize social media for its many benefits. It is a valuable resource when used appropriately and yields many positive results.

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